

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JEANNIE PATORA, individually on behalf of :
herself and all others similarly situated, :
Plaintiff, :

v. :
:

VI-JON LLC, :
Defendant. :

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NANCY KANE, individually on behalf of :
herself and all others similarly situated, :
Plaintiff, :

v. :
:

VI-JON LCC, :
Defendant. :

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ORDER

9/15/22

22 CV 6678 (VB)

22 CV 7061 (VB)

On September 14, 2022, defendant in each of the above related actions filed motions to dismiss pursuant to Rule 12(b)(6). (Doc. #8 in case no. 22 CV 6678 and Doc. #7 in case no. 22 CV 7061).

Accordingly, it is hereby ORDERED that, by no later than September 26, 2022, each plaintiff must notify the Court by letter whether she (i) intends to file an amended complaint in response to the motion to dismiss, or (ii) will rely on the complaint that is the subject of the motion to dismiss.

If either plaintiff elects not to file an amended complaint, the motion to dismiss her complaint will proceed in the regular course, and the Court is unlikely to grant the plaintiff a further opportunity to amend to address the purported deficiencies made apparent by the fully briefed arguments in defendant's motion. See Loreley Fin. (Jersey) No. 3 Ltd. v. Wells Fargo Sec., LLC, 797 F.3d 160, 190 (2d Cir. 2015) (leaving "unaltered the grounds on which denial of leave to amend has long been held proper, such as undue delay, bad faith, dilatory motive, and futility"); accord F5 Capital v. Pappas, 856 F.3d 61, 89–90 (2d Cir. 2017). The time to file opposing and reply papers shall be governed by the Federal Rules of Civil Procedure and the Local Civil Rules, unless otherwise ordered by the Court.

If either plaintiff elects to file an amended complaint, she must file her amended complaint by no later than 14 days after notifying the Court of her intent to do so.

Within 21 days of such amendment, defendant may either: (i) file an answer to the amended complaint; (ii) file a motion to dismiss the amended complaint; or (iii) notify the Court by letter that it is relying on the initially filed motion to dismiss.

Dated: September 15, 2022
White Plains, NY

SO ORDERED:



Vincent L. Briccetti, U.S.D.J.